MT LEGISLATIVE HISTORY

Chapter 133 1987

Bill (H) 139 S _____ Original bill & hist. ✓ C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 19	✓ C	Hearing Date(s) Mar 04	✓ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out Jan 19	✓ C	Mar 04	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 139

INTRODUCED BY KOEHNKE

IN THE HOUSE

JANUARY 12, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 20, 1987	PRINTING REPORT.
JANUARY 21, 1987	SECOND READING, DO PASS.
JANUARY 22, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 95; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 24, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 5, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1987	SECOND READING, CONCURRED IN.
MARCH 11, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 12, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

CS-32
1985

STATUS SHEET

50th LEGISLATIVE SESSION

JUDICIARY COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
81	1/5/87	1/13/87	1/13/87			1/13/87					
82	1/8/87	1/13/87	1/16/87			1/16/87					
89		2/12/87	failed to meet deadline								
95	1/7/87	1/15/87	1/15/87	1/15/87							
110	1/8/87	2/4/87	2/14/87		2/14/87						
111	1/8/87	2/4/87	2/14/87		2/14/87						
112	1/8/87	1/28/87	tabled 2/14/87								
120	1/9/87	1/14/87	1/22/87	tabled							
123	1/9/87	1/15/87	2/14/87			2/14/87					
127		2/16/87	failed to meet deadline								
134	1/9/87	1/15/87	1/15/87			1/15/87					
135	1/10/87	1/16/87	1/23/87	(tabled 2/20/87)							
139	1/12/87	1/19/87	1/19/87			1/19/87					
141	1/12/87	1/26/87	1/27/87			1/27/87					

a separate sheet for Senate Bills, House Bills, and Resolutions.

H.B BILL NO. 139

INTRODUCED BY Toohey

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE YEARLY COMPENSATION PROVISO OF THE GOOD SAMARITAN LAW RELATING TO AMBULANCE DRIVERS AND PERSONS GIVING EMERGENCY MEDICAL TREATMENT; AND AMENDING SECTION 27-1-714, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-714, MCA, is amended to read:

"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care or assistance.

(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as ~~any~~ the total reimbursement received for such volunteer services does not exceed ~~25%-of-his--gross--annual--income~~ $3,000 a calendar year.

(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, such refusal does not constitute gross negligence or a willful or wanton act or omission."

-End-

LC 0615/01

INTRODUCED BILL
HB-139

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 19, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 19, 1987, at 10:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Joan Miles who was excused and Rep. Dave Brown who was not present.

HOUSE BILL NO. 139: Rep. Koehnke, District #32, sponsor, stated this bill is a good samaritan bill. There is an existing problem for the good samaritan with regards to liability. This bill limits liability for emergency care rendered at the scene of an accident or emergency. A good samaritan is not liable for any civil damages other than damages for gross negligence or by willful or wanton acts or omissions by such person in rendering emergency care or assistance. This includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as the total reimbursement received for such volunteer services does not exceed $3,000.00 a calendar year.

PROPONENTS:

ELLEN GALLENGEN, an EMT from Townsend, Montana, stated those who are homemakers or who are retired and do not have any outside income and operate a volunteer ambulance service, if the county paid $1.00 to cover the cost of a babysitter that would be 25% of their gross annual income. Montana is greatly covered by volunteer emergency workers and we are a state that has a history of helping each other. Homemakers are not protected at all and we want this changed. This bill will help all volunteer workers, especially the homemaker, who want to continue working in this area of service.

DREW DAWSON, Chief of Emergency Medical Services with the Department of Health, stated he was there as a proponent for this measure. He stated when the original amendment for the clarification of volunteers was adopted in 1979, no one thought far enough ahead in terms of what the impact would be for the homemaker and for those with limited incomes. He emphasized this is definitely a good bill and will help attract and keep all volunteer emergency medical providers on a local level.

LYLE NAGLE, President of the State Volunteer Fire Fighter Association, stated there is an increase of women in the fire service, including homemakers, retired people and college students in all departments. He felt this bill would be some protection for those people and urged support.

HENRY LOHR, Montana State Volunteer Fire Fighters Association, went on record in support of this bill.

NO FURTHER PROPONENTS AND NO OPPONENTS

DISCUSSION (OR QUESTIONS) ON HOUSE BILL NO. 139: Rep. Darko asked Rep. Koehnke if, in order to make this bill a little more flexible, perhaps the original language of 25% of gross annual income or $3,000.00 a calendar year, whichever was greater be inserted. Rep. Koehnke had no objection to this proposal. Rep. Addy stated it seemed if the bill passes as is, we are taking immunity away from some people and those are the people who make more than $12,000.00 a year. If a flexible language is used, there would be protection both ways. Rep. Koehnke stated he was happy to carry this bill and he hopes it makes the committee happy to pass the bill. The hearing on HB 139 was closed.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 139: Rep Addy moved to amend HB 139. He proposed an amendment starting on Page two, line three, following: "25% of his gross annual income" insert: "25% of his gross annual income or, and on Page 2, line 4, following: "year" insert: ", whichever is greater." Question was called. A voice vote was taken on the amendment. All members voted in favor and the motion carried unanimously. Rep. Addy moved the bill. A voice vote was taken and all members unanimously voted in favor of the motion. HB 139 DO PASS AS AMENDED.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 10:30 a.m.

Earl Lory

REP. EARL LORY, Chairman

STANDING COMMITTEE REPORT

January 19, 19 87

Mr. Speaker: We, the committee on Judiciary

report House Bill No. 139

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

1. Page 2, line 3.
Following: " ~~25% of his gross annual income~~"
Insert: "25% of his gross annual income or"

2. Page 2, line 4.
Following: "year"
Insert: ", whichever is greater"

FIRST WHITE
reading copy (color)

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)		✓	✓
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)		✓	
EARL LORY (R)	✓		

VISITOR'S REGISTER

JUDICIARY COMMITTEE

AGENCY(S) _____ DATE January 19, 1987

DEPARTMENT _____

PLEASE PRINT..... HB 139

NAME	REPRESENTING	SUPPORT	OPPOSE
Monica Johnson			
Lyle Nagel	Mt. St. Vol Firefighters Assn	✓	
Drew Dawson	MT. Dept. Health (EMS)	✓	
Betty d. Hoehnke		✓	
Henry E. Lick R.	MT. St. Vol. Firefighters Assn	✓	
Amy Konen			

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

FORM CS-33A
Rev. 1985

SECRETARY-MARY HUBER

DAYS: MON THRU FRI TIME: 10:00 A.M.

		CONSIDERATION DATES		COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
				CONCUR		3/4
			ALLOW DOR TO REQUIRE HEALTH COVERAGE WHEN CHILD SUPPORT IS BEING ENFORCED			
[illegible]	1/21	2/12		CONCUR AS AMENDED		3/4
			CLARIFY THAT ADMIN. SUPPORT ORDER OF DOR MAY NOT BE RETROACTIVELY MODIFIED			
[illegible]	1/28	2/12		CONCUR		3/4
BROWN, JAN			RIGHTS OF DOR AND RECIPIENTS OF PUBLIC ASSISTANCE AS TO ASSIGNED SUPPORT			
HB0095	1/22	2/10		ADVERSE REPORT		3/5
ADDY, KELLY			ELIMINATE ANNUAL ACCOUNTING BY GUARDIANS AND CONSERVATORS			
HB0123	2/21	3/11		CONCUR AS AMENDED		3/11
BRADLEY, DOROTHY			HIRING RETIRED JUDGES OR QUALIFIED LAWYERS AS TEMPORARY JUDGES			
HB0134	1/22	2/10		CONCUR AS AMENDED		3/3
ADDY, KELLY			NO PUBLICATION REQUIRED WHEN PARENTS/GUARDIANS CONSENT TO NAME CHANGE			
HB0139	1/24	3/04		CONCUR		3/4
KOEHNKE, FRANCIS			MINIMUM COMPENSATION PROVISO IN SCENE OF INJURY GOOD SAMARITAN LAW			
HB0141	2/02	3/17		CONCUR		3/17
BARDANOUVE, FRANCIS			CREATE FEE FOR FILING MOTION FOR JUDGE SUBSTITUTION IN CIVIL CASES			
HB0146	3/02	3/24		CONCUR		3/27
SPAETH, GARY			IRRIGATION DITCH EMPLOYEE CIVIL SUIT IMMUNITY			
HB0163	2/16	3/09		CONCUR AS AMENDED		3/16
MERCER, JOHN			PROVIDING DEFINITION OF "UNDER THE INFLUENCE"; REPLACING EXISTING STANDARD			
HB0167	3/02	3/12		CONCUR AS AMENDED		3/24
GILBERT, BOB			LIMITING RIGHT TO RECOVER DAMAGES FOR EMOTIONAL OR MENTAL DISTRESS			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 4, 1987

The thirty-fifth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 4, 1987 by chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 267: Representative John Mercer, House District 50, Polson, presented the bill, and said it imposes a duty on mental health professionals to warn of a patient's violent behavior in certain cases, establishes the means of discharging that duty, and grants immunity from suit in other cases. (Exhibit 1)

PROPONENTS: Steve Waldron, Mental Health Centers, supports HB 267. (Exhibit 2)

Dr. Hugh Black, Montana Psychological Association, stated the duty to warn people about a mental health patient's attitude toward them can lead to liability problems. (See witness sheet)

Joan Rebich, Mental Health Counselor's Association, said the counselors support the bill but don't want an amendment that makes a psychiatrist tell a person who could be a victim, about a mentally ill person's feelings toward them because she felt that was in their code of ethics already.

Judith Carlson, Montana Association of Social Workers, is in favor of the bill.

Bill Leary, Montana Hospital Association, said the threat is only reported, not the mental diagnosis of the patient, so the hospitals feel it is not a breech of confidentiality.

school counselors should be included because they may know more about a student who might "blow". Mr. Waldron said school counselors are not trained to decide if someone is mentally ill.

Senator Beck asked why the threat provision is so light. He felt a simple threat should be taken seriously from a mental patient. Rep. Mercer said a threat that comes to nothing will start to be a "cry of wolf". He said no one will take a "cry wolf" client seriously until the client really does do something, and then it is too late.

Rep. Mercer closed by saying if a mentally ill person calls a hotline crisis number and gets a therapist on the other end who says, "I must warn you that anything you say may be used against you", that person will probably hang up. He felt the McGrath amendment does this. He doesn't agree with the amendment.

CONSIDERATION OF HOUSE BILL 65: Representative Ray Peck of Havre introduced House Bill 65, which amends the statute that provides for serving out traffic fines by spending time in jail. Under current law, a misdemeanor fine can be served out at $2 a day. Under this bill, the amount credited per day is raised to $10 a day.

PROPONENTS: Jim Haynes, Montana Magistrates Association, supports the bill.

OPPONENTS: There were none.

DISCUSSION ON HOUSE BILL 65: Senator Mazurek asked when was the last time this fine was raised. Rep. Peck said he didn't know; around 30 years.

Representative Peck closed the hearing on House Bill 65.

ACTION ON HOUSE BILL 65: Senator Blaylock moved HB 65 BE CONCURRED IN. The motion carried.

CONSIDERATION OF HOUSE BILL 139: Representative Francis Koehnke, Townsend, presented the bill, which amends the Good Samaritan law to change the amount that a person be compensated for volunteer services and still fall within the Good Samaritan exemption from liability.

PROPONENTS: Ellen Calligan, Emergency Medical Technicians, said because Montana is such a large state, many emergency assistance people are volunteers. She said many EMT daily crews are homemakers, and they do not have any liability insurance as an EMT.

Drew Dawson, Montana Department of Health, said the department supports the bill.

Lyle P. Nagel, Montana State Volunteer Firefighters Association, stated many homemakers, college students, and unemployed people have volunteered for emergency medical work, and need liability insurance.

Bill Leary, Montana Hospital Association, supports HB 139.

Henry Elohn, Montana State Volunteer Firefighters, supports the bill.

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 139: There was none.

CONSIDERATION OF HOUSE BILL 58: Representative Nancy Keenan, Anaconda, introduced HB 58, which amends five criminal procedure statutes to authorize "licensed clinical psychologists", as well as psychiatrists, to examine defendants who rely on mental disease or defect as an issue in criminal actions. She distributed a summary on the bill. (Exhibit 4) She also presented a letter from District Judge Michael Keedy on the bill. (Exhibit 5)

PROPONENTS: Dr. Hugh Black, Montana Psychologist Assn. supported the bill. (see witness sheet)

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 58: Senator Pinsoneault asked who came to Rep. Keenan to request this bill. She said the psychologists have been doing this for awhile, and they felt it should be clarified in the law.

Rep. Keenan closed the hearing on HB 58.

ACTION ON HOUSE BILL 58: Senatot Blaylock moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 21: Valencia Lane gave the committee a gray bill for HB 21. (Exhibit 6) Senator Mazurek asked if there was a state constitutional delegation problem in the 55 mph bill. Valencia said there wasn't. She said that problem was if the federal government repealed the requirement of the 55 mph requirement, then the Attorney General will change the speed limit. She said the Montana Supreme Court found that unconstitutional.

Senator Brown moved the amendments in the gray bill. The motion carried. Senator Halligan moved House Bill 21 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 139: Senator Halligan moved House Bill 139 BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 267: Senator Pinsoneault moved on page 2, line 5, to strike "or" and insert the word "and", so the psychologist will warn both, the authorities and the victim. Senator Bishop said it works both ways; he felt if the victim knew of the threat, the victim might cause the violent act. Senator Beck felt the police should be the only ones to know, because they will try to contact you instead of a psychiatrist. The motion carried, with Senators Halligan, Beck and Crippen voting no.

Senator Blaylock moved Joy McGrath's amendment (exhibit 3). He agreed the patient should know when confidentiality is broken. Senator Bishop said a patient won't divulge what is on his mind if the committee passes this amendment. Senator Pinsoneault agreed with Senator Bishop. Senator Blaylock said to the five attorneys on the committee, that he knew they would probably break confidentiality to clear someone of a conviction. Senator Mazurek pointed out a priest can't break confidentiality at all. Senator Crippen felt the amendment puts the mental health professional in a tight spot. Senator Mazurek agreed with Representative Mercer on his closing about a desperate person calling a crisis center and hanging up if this amendment was adopted. Senator Blaylock believed the patient is going to a mental health session with trust for the psychiatrist, and if this amendment doesn't pass, there is a break in that trust and relationship. The motion FAILS by a vote of 2 to 8, with Senators Blaylock and Yellowtail voting yes.

ACTION ON HOUSE BILL 77: Senator Mazurek explained the agency will not get federal funds unless the legislature passes this bill. Senator Crippen moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 79: Senator Brown moved the bill BE CONCURRED IN. Senator Yellowtail expressed how he did not like the $100 a month penalty. Senator Halligan said in all of his child support cases, he has never seen a provision about a supporting parent having to pay for health coverage like this. Senator Mazurek said maybe this $100 penalty is cheaper than a health insurance premium.

ROLL CALL

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 4

NAME	PRESENT	ABSENT	EXCUSED
Senator Joe Mazurek, Chairman	X		
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	X		
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Jack Galt	X		
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 4 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 139

Third reading copy (blue color)

Minimum compensation provision is scene of injury good samaritan law.

Koehnke (illegible) (Hofman)

Respectfully report as follows: That HOUSE BILL ~~XXX~~ 139 No.

~~XXXXXX~~ DO PASS BE CONCURRED IN

~~XXXXXXXX~~ DO NOT PASS

Senator Mazurek Chairman.

HOUSE BILL NO. 139

INTRODUCED BY KOEHNKE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE YEARLY COMPENSATION PROVISO OF THE GOOD SAMARITAN LAW RELATING TO AMBULANCE DRIVERS AND PERSONS GIVING EMERGENCY MEDICAL TREATMENT; AND AMENDING SECTION 27-1-714, MCA."

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(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, such refusal does not constitute gross negligence or a willful or wanton act or omission."

-End-

REFERENCE BILL